

Introduced by Senator Bowen

February 20, 2003

An act to amend ~~Section~~ *Sections 309.5 and 1802* of, and to add Section 1802.3 to, the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 521, as amended, Bowen. Public Utilities Commission: ~~intervenor fees and expenses~~ *customers*.

Existing

(1) *Existing law creates a division within the Public Utilities Commission to represent the interests of public utility customers and subscribers within the jurisdiction of the commission.*

This bill would provide that for revenue allocation and rate design matters, the division would be required to primarily consider the interests of residential and small commercial customers.

(2) *Existing law provides compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers for participation or intervention in any proceeding of the ~~Public Utilities Commission~~ commission. Existing law defines "customer" in part to include any representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential electrical, gas, telephone, telegraph, or water corporation customers.*

This bill would also include within the definition of "customer" any representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of small commercial customers who receive bundled electric service from an

electrical corporation. The bill would prohibit a representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation from being eligible for an award of compensation if the representative has a conflict arising from prior representation before the commission.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 309.5 of the Public Utilities Code is*
2 *amended to read:*

3 309.5. (a) There is within the commission a division to
4 represent the interests of public utility customers and subscribers
5 within the jurisdiction of the commission. The goal of the division
6 shall be to obtain the lowest possible rate for service consistent
7 with reliable and safe service levels. *For revenue allocation and*
8 *rate design matters, the division shall primarily consider the*
9 *interests of residential and small commercial customers. The*
10 *amendments made to this section during the 2001 portion of the*
11 *2001-02 Regular Session by Chapter 440 of the Statutes of 2001*
12 *are not intended to expand the representation and responsibilities*
13 *of the division.*

14 (b) The director of the division shall be appointed by and serve
15 at the pleasure of the Governor, subject to confirmation by the
16 Senate. The director shall annually appear before the appropriate
17 policy committees of the Assembly and the Senate to report on the
18 activities of the division.

19 (c) The commission shall, by rule or order, provide for the
20 assignment of personnel to, and the functioning of, the division.
21 The division may employ experts necessary to carry out its
22 functions. Personnel and resources shall be provided to the
23 division at a level sufficient to ensure that customer and subscriber
24 interests are fairly represented in all significant proceedings.

25 (d) The commission shall develop appropriate procedures to
26 ensure that the existence of the division does not create a conflict
27 of roles for any employee or his or her representative. The
28 procedures shall include, but shall not be limited to, the
29 development of a code of conduct and procedures for ensuring that
30 advocates and their representatives on a particular case or



1 proceeding are not advising decisionmakers on the same case or
2 proceeding.

3 (e) The division may compel the production or disclosure of
4 any information it deems necessary to perform its duties from
5 entities regulated by the commission provided that any objections
6 to any request for information shall be decided in writing by the
7 assigned commissioner or by the president of the commission if
8 there is no assigned commissioner.

9 (f) There is hereby created the Public Utilities Commission
10 Ratepayer Advocate Account in the General Fund. Moneys from
11 the Public Utilities Commission Utilities Reimbursement Account
12 in the General Fund shall be transferred in the annual Budget Act
13 to the Public Utilities Commission Ratepayer Advocate Account.
14 The funds in the Public Utilities Commission Ratepayer Advocate
15 Account shall be utilized exclusively by the division in the
16 performance of its duties. The commission shall annually submit
17 a staffing report containing a comparison of the staffing levels for
18 each five-year period.

19 (g) On or before January 10 of each year, the commission shall
20 provide to the chairperson of the fiscal committee of each house
21 of the Legislature and to the Joint Legislative Budget Committee
22 all of the following information:

23 (1) The number of personnel years assigned to the Office of
24 Ratepayer Advocates.

25 (2) The total dollars expended by the Office of Ratepayer
26 Advocates in the prior year, the estimated total dollars expended
27 in the current year, and the total dollars proposed for appropriation
28 in the following budget year.

29 (3) Workload standards and measures for the Office of
30 Ratepayer Advocates.

31 (h) The division shall agree to meet and confer in an informal
32 setting with a regulated entity prior to issuing a report or pleading
33 to the commission regarding alleged misconduct, or a violation of
34 a law or a commission rule or order, raised by the division in a
35 complaint. The meet and confer process shall be utilized as an
36 informal means of attempting to reach resolution or consensus on
37 issues raised by the division regarding any regulated entity in the
38 complaint proceeding.

39 *SEC. 2.* Section 1802 of the Public Utilities Code is amended
40 to read:

1 1802. (a) “Compensation” means payment for all or part, as
2 determined by the commission, of reasonable advocate’s fees,
3 reasonable expert witness fees, and other reasonable costs of
4 preparation for and participation in a proceeding, and includes the
5 fees and costs of obtaining an award under this article and of
6 obtaining judicial review, if any.

7 (b) “Customer” means any participant representing
8 consumers, customers, or subscribers of any electrical, gas,
9 telephone, telegraph, or water corporation that is subject to the
10 jurisdiction of the commission; any representative who has been
11 authorized by a customer; or any representative of a group or
12 organization authorized pursuant to its articles of incorporation or
13 bylaws to represent the interests of residential customers, or small
14 commercial customers who receive bundled electric service from
15 an electrical corporation, but does not include any state, federal,
16 or local government agency, any publicly owned public utility, or
17 any entity that, in the commission’s opinion, was established or
18 formed by a local government entity for the purpose of
19 participating in a commission proceeding.

20 (c) “Expert witness fees” means recorded or billed costs
21 incurred by a customer for an expert witness.

22 (d) “Other reasonable costs” means reasonable out-of-pocket
23 expenses directly incurred by a customer that are directly related
24 to the contentions or recommendations made by the customer that
25 resulted in a substantial contribution.

26 (e) “Party” means any interested party, respondent public
27 utility, or commission staff in a hearing or proceeding.

28 (f) “Proceeding” means an application, complaint, or
29 investigation, rulemaking, alternative dispute resolution
30 procedures in lieu of formal proceedings as may be sponsored or
31 endorsed by the commission, or other formal proceeding before
32 the commission.

33 (g) “Significant financial hardship” means either that the
34 customer cannot afford, without undue hardship, to pay the costs
35 of effective participation, including advocate’s fees, expert
36 witness fees, and other reasonable costs of participation, or that,
37 in the case of a group or organization, the economic interest of the
38 individual members of the group or organization is small in
39 comparison to the costs of effective participation in the
40 proceeding.

(h) “Substantial contribution” means that, in the judgment of the commission, the customer’s presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer’s participation has resulted in a substantial contribution, even if the decision adopts that customer’s contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate’s fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation.

~~SEC. 2.~~

SEC. 3. Section 1802.3 is added to the Public Utilities Code, to read:

1802.3. A representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation shall not be eligible for an award of compensation pursuant to this article if the representative has a conflict arising from prior representation before the commission. This conflict may not be waived.

CORRECTIONS

Title — Line 1.